

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

March 4, 1996

UNITED STATES OF AMERICA,)	
Complainant)	
)	8 U.S.C. 1324a Proceeding
vs.)	
)	OCAHO Case No. 95A00033
MOSES SPORTSWEAR, INC.,)	
Respondent)	

ORDER GRANTING COMPLAINANT'S MOTION FOR DEFAULT JUDGMENT

On July 2, 1995, and again on October 19, 1995, an Order to Show Cause Why Complainant's Motion for Default Judgment Should Not be Granted was issued and served upon respondent.

In those orders, respondent was ordered to show cause why complainant's June 30, 1995 Motion for Default Judgment should not be granted or, in the alternative, to have filed an answer to complainant's Complaint which comports with the requirements of the pertinent procedural rule, 28 C.F.R. § 68.9(c).

In both of those show cause orders, respondent was clearly advised that a failure to file the required, complying responsive pleading would result in the entry of a judgment by default against the respondent firm. The more recent compliance deadline in those orders was November 8, 1995.

By way of correspondence received in this Office on February 22, 1995, Patricia Gannon, Esquire, complainant's counsel of record, advises that a compromise settlement of all matters in controversy had been reached by the parties. However, the agreed upon payment sum and the pertinent fully executed settlement agreement were not delivered to complainant by January 31, 1996, as the parties had apparently agreed upon.

In view of that fact, complainant requests a reissuance of the undersigned's October 19, 1995 Reissue of July 21, 1995 Order to Show Cause Why Complainant's Motion for Default Judgment Should Not be Granted.

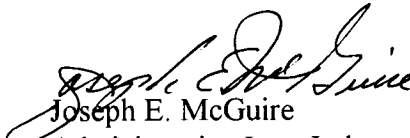
Although complainant's request is in order and is most reasonable under these facts, the reissuance of that order compelling respondent, for the third time, to comply with the procedural rules governing this proceeding as it relates to replying to the initiating Complaint would be almost certainly unavailing.

Respondent has chosen, for whatever reasons, to ignore and/or disobey the controlling procedural directives and thereby placed itself in default concerning all of the allegations in the Complaint, as well as the appropriateness of the total \$17,430 civil money penalty sums assessed for the 53 paperwork violations at issue.

In view of the foregoing, it is found that respondent's continued failure to have filed a proper answer to the March 2, 1995 Complaint constitutes a waive of its right to appear and contest the allegations contained in that initiating pleading.

Accordingly, a judgment by default is being entered against respondent.

Further, it is determined that respondent violated IRCA in the manners alleged in Counts I and II of the Complaint, and it is ordered that the appropriate aggregate civil money penalty sum of the 53 violations cited in those two (2) counts is \$17,430.


Joseph E. McGuire
Administrative Law Judge

Appeal Information

This Order shall become the final order of the Attorney General unless, within 30 days from the date of this Order, the Chief Administrative Hearing Officer shall have modified or vacated it. Both administrative and judicial review are available to respondent, in accordance with the provisions of 8 U.S.C. §§ 1324c(d)(4); 1324c(d)(5), and 28 C.F.R. § 68.53.

CERTIFICATE OF SERVICE

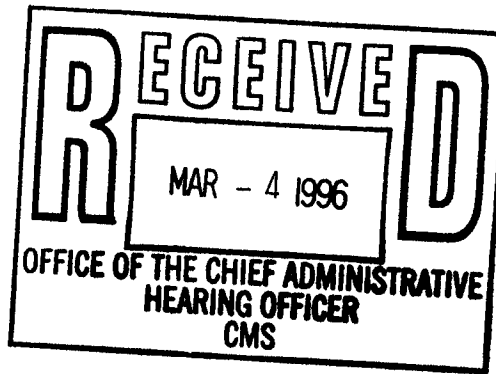
I hereby certify that on this 4th day of March, 1996, I have served copies of the foregoing Order Granting Complainant's Motion for Default Judgment to the following persons at the addresses shown, in the manner indicated:

Office of Chief Administrative Hearing Officer
Skyline Tower Building
5107 Leesburg Pike, Suite 2519
Falls Church, Virginia 22041
(original hand delivered)

Dea Carpenter, Esquire
Associate General Counsel
Immigration and Naturalization Service
425 "I" Street, N.W., Room 6100
Washington, D.C. 20536
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Patricia Gannon, Esquire
Immigration & Naturalization Service
P.O. Box 2669
New York, New York 10008-2669
(one copy sent via regular mail)

Mr. Francisco Valerio
President, Moses Sportswear, Inc.
27-25 99th Street
East Elmhurst, New York 11369
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Cathleen Lascari
Legal Technician to
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